

Staff Attorneys' Office  
Arizona Supreme Court  
1501 W. Washington, Suite 445  
Phoenix, AZ 85007  
(602) 452-3528  
ecrowley@courts.az.gov

IN THE SUPREME COURT  
STATE OF ARIZONA

Sua Sponte Petition to Amend	)	
Rule 1 and Post Conviction Form	)	Arizona Supreme Court
No. 1, Rules of the Supreme Court	)	No. _____
	)	
_____	)	

Pursuant to Rule 28(B), Rules of the Supreme Court, amendments to Rule 1 and Post Conviction Form No. 1, Rules of the Supreme Court, are proposed as set forth in Attachment A hereto. The proposal clarifies that there is no fee for filing a writ for habeas corpus by deleting references in the rule and form to applications to proceed in *forma pauperis*.

DATED this \_\_\_\_\_ day of January, 2010.

By:

\_\_\_\_\_  
Ellen M. Crowley,  
Chief Staff Attorney  
Arizona Supreme Court

## Attachment A

### Rules of the Supreme Court

#### Rule 1. Application for Issuance of Writ Under Original Jurisdiction

**(a) Form; service; filing.**

1. [No change in text.]

2. All post conviction applications for habeas corpus shall be signed and verified, and shall either contain the answers provided for in Post Conviction Form No. 1, or contain the following information:

a.-j. [No change in text.]

~~k. If movant seeks leave to proceed *in forma pauperis*, whether he has completed the affidavit required;~~

l k. [No change in text.]

m l. [No change in text.]

n m. [No change in text.]

o n. [No change in text.]

~~Where a motion is taken *in forma pauperis*, movant shall complete a *forma pauperis* affidavit and shall set forth information which establishes that he will be unable to pay the costs of any subsequent proceedings.~~

Failure to fully comply with the foregoing shall be grounds for returning the application without action thereon.

**(b)-(e)** [No change in text.]

**POST CONVICTION FORM NO. 1**

SUPREME COURT OF ARIZONA

_____	)	
Full name and prison number	)	
(if any) of Petitioner,	)	
	)	
PETITIONER,	)	Case No.: _____
vs.	)	(To be supplied by Clerk)
_____	)	
Name of Respondent	)	PETITION FOR
(Name of person--Sheriff,	)	WRIT OF
Jailor or Warden--who has	)	HABEAS CORPUS
you in custody.)	)	
	)	
RESPONDENT.	)	

INSTRUCTIONS--READ CAREFULLY

In order for this petition to receive consideration by the Court, it shall be in writing, (legibly handwritten or typewritten) signed by the Petitioner and verified (notarized), and it shall set forth in concise form the answers of each applicable question. If necessary, Petitioner may finish his answer to a particular question on the reverse side of the page or on an additional blank page. Petitioner shall make it clear to which question any such continued answer refers.

Since every petition for habeas corpus must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Petitioners should therefore exercise care to assure that all answers are true and correct.

~~If the petition is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that Petitioner will be unable to pay an attorney or costs in any subsequent proceeding.~~ When the petition is complete, the original and seven copies (a total of eight) shall be mailed to the Clerk of the Supreme Court of Arizona, State Courts Building, 1501 West Washington, Phoenix, Arizona, 85007, and one copy to the Attorney General of Arizona, 159 Capitol Building, Phoenix, Arizona, 85007.

1.- 18. [No change in text.]

~~19. If you are seeking leave to proceed in forma pauperis, have you completed the sworn affidavit setting forth the required information (see instructions, page 1 of this form)?~~

Wherefore, petitioner prays that he be discharged from custody and restraint.

STATE OF ARIZONA     )  
                                      ) ss  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, being first sworn under oath, state that the information contained in the foregoing petition is true and correct.

\_\_\_\_\_  
Signature of Petitioner

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
My Commission Expires

STATE OF ARIZONA \_\_\_\_\_ )  
\_\_\_\_\_) ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT IN FORMA PAUPERIS**

Having appeared before me in person, and having been first duly sworn, \_\_\_\_\_  
deposes and says:

That he is the Petitioner in the foregoing action; that he feels that he has a good and just cause of action against the named Respondent; that he is an indigent person and without means to employ counsel, and that he is therefore unable to pay an attorney or costs in any subsequent proceeding, and requests to be permitted to proceed *in forma pauperis*.

\_\_\_\_\_  
Affiant Box No. \_\_\_\_\_ Institution at which you are presently confined: \_\_\_\_\_ signature of  
\_\_\_\_\_  
\_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_  
-(month) (day) (year)